



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,666	01/18/2002	Scott P. Crafton	C152 1150	1166

7590 06/15/2004

WOMBLE CARLYLE SANDRIDGE & RICE
P.O. Box 7037
Atlanta, GA 30357-0037

EXAMINER

KASTLER, SCOTT R

ART UNIT	PAPER NUMBER
----------	--------------

1742

DATE MAILED: 06/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AS

Office Action Summary	Application No. 10/051,666	Applicant(s) CRAFTON ET AL.	
	Examiner Scott Kasler	Art Unit 1742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 23-31 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 23-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-3 are rejected under 35 U.S.C. 102(a) as being anticipated by Pollkoetter.

Pollkoetter teaches a metal processing facility including a pouring station (11), a heat treatment unit (see col. 4 lines 33-40 for example, where a heat treatment station is located at section 57), and an intermediate transfer system including a heat source (54) including heating elements, for maintaining the castings at a “process temperature” as well as a mechanized arm (55) for transferring the castings from the pouring station to the heat treatment station, thereby showing all aspects of the above claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-10 and 23-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pollkoetter in view of the ASM Handbook, Vol. 4. As applied to claims 1-3 above, Pollkoetter shows all aspects of the above claims except the use of any particular heat treatment furnace type or arrangement, or the use of a “process temperature control chamber” for adjusting the

Art Unit: 1742

temperature of the castings prior to entry into the heat treating furnace, although Pollkoetter allows for the use of any desired heat treatment furnace type, including those with pre-heating chambers ("process temperature control chambers"). The ASM handbook, Vol. 4 pages 465-474, teaches that at the time the invention was made, heat treatment furnaces meeting all requirements of the instant claims, including the use of heat treatment baskets for holding the castings (see fig. 4 on page 467 for example), pre-heating chambers (which meet the definition of "process temperature control chambers", see Fig. 9 page 470 for example) as well as the use of any of radiant heating means, burners or convection heaters (see pages 471-473 for example). Applicant has not yet shown any new or unexpected results arising from the use of any particular heat treating furnace arrangement as long as the arrangement is sufficient to heat treat the castings. Because Pollkoetter requires the use of some unspecified type of heat treating furnace, motivation to employ any of the numerous known equivalent heat treating furnace arrangements disclosed by the ASM Handbook, Vol.4, including those with preheating, or process temperature control chambers, would have been a modification obvious to one of ordinary skill in the art at the time the invention was made.

Response to Arguments

Applicant's arguments filed on 3-10-2004 have been fully considered but they are not persuasive. Applicant's argument that the heat source (54) of Pollkoetter does not function in the same manner as the heating furnace of the instant claims is not persuasive because all of the instantly rejected claims are apparatus claims, and the manner or method of use of an apparatus (in the instant case the operation of the heater (54) of Pollkoetter at any specific temperature)

Art Unit: 1742

cannot be relied upon to fairly further distinguish claims to the apparatus itself. See *In re Casey*, 152 USPQ 235 and MPEP 2114. Therefore, as described in the above rejections, since Pollkoetter teaches a pouring station (11), a heat treatment unit (at 56 as described at col. 4 lines 33-40) a transfer system and a heat source (54) all of which would be capable of performing the instantly recited functions, even though these functions may not be specifically described by Pollkoetter, Pollkoetter fairly shows or fairly suggests all aspects of the above claims.

Applicant's further argument that the ASM article, describing heat treating equipment is not properly combinable with the flow forming system of Pollkoetter is not persuasive because as stated in the above rejections, Pollkoetter specifically recites the use of a general heat treating (for solution treating) furnace, and as stated in the above rejection, employment of known heat treating furnace arrangements as taught by the ASM article as the heat treating furnace required by Pollkoetter would have been a modification obvious to one of ordinary skill in the art at the time the invention was made.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

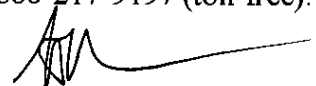
Art Unit: 1742

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Kastler whose telephone number is (571) 272-1243. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Scott Kastler
Primary Examiner
Art Unit 1742

sk